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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,772	08/04/2003	Elinor Isobel Forbes	MS-02/3/US	5121
7590	08/22/2007			
James C. Forbes 101 Pointe Drive, #403 Northbrook, IL 60062			EXAMINER MUSSELMAN, TIMOTHY A	
			ART UNIT	PAPER NUMBER
			3714	
			MAIL DATE	DELIVERY MODE
			08/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/633,772

Applicant(s)

FORBES ET AL.

Examiner

Timothy Musselman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 11 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

In response to the communication dated 5/11/2007, claims 19-38 are pending in this application.

Claim Rejections - 35 USC § 103

The following is a quotation of the relevant portion of 35 U.S.C. 103 that forms the basis for the rejections made in this section of the office action;

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Claims 21-23 and 26-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klimpert (US 5,735,521) in view of Welbourn (US 3,479,751).

Regarding claims 21-23 and 38, Klimpert discloses a puzzle type kit comprising multiple pieces that have surface layers formed collectively of a plurality of soft fabrics distinguishable by touch. See col. 2: 25-38. Note how it is described that the careful use of the *texture* of the material enhances the realism of the image (i.e. the assembled puzzle has different textures). Klimpert further discloses wherein the puzzle pieces can be soft on all sides. See col. 2: 51-54, and note that a three-dimensional puzzle with *appropriately textured surfaces* encompasses texturing on all sides, if necessary for the particular three-dimensional design. Klimpert further discloses wherein the pieces attach to each other by interlocking edges. (Claims 21-23). See col. 2: 15-25. Klimpert does not teach applicants two method steps wherein the device is presented to a subject suffering from dementia and used for therapeutic purposes. However,

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Welbourn discloses a puzzle type kit for use by those suffering from mental disorders for providing a therapeutically beneficial challenge appropriate to the subject's mental acuity. See col. 1: 25-29, and col. 1: 72 – col. 2:7. In light of this teaching by Welbourn, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the device of Klimpert for the same purpose, since they are both puzzle type devices and both would thus have therapeutic value as taught by Welbourn.

Regarding claims 26-28, Klimpert fails to teach of a rack comprising a frame comprising apertures of various specific sizes to fit specific pieces. However, Welbourn teaches of this feature in col. 2: 1-7. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this general concept into the puzzle of Klimpert so as to provide additional assembly hints to the user.

Regarding claim 29, the limitations have already been disclosed with reference to claim 21 above.

Regarding claim 30-31, Klimpert fails to teach of eyelets in the pieces to engage a plurality of pegs, said pegs defining a receiving area for the pieces. However, Welbourn discloses this feature in col. 2: 40-62. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this concept into the invention of Klimpert, in order to provide additional assembly guides for the user. Note also that eyelets in the pieces also includes eyelets in the textured surfaces as per claim 31.

Regarding claim 32, Klimpert further discloses wherein the pieces can have opposing sides of differing soft fabrics. See col. 2: 51-54, and note that *appropriately textured surfaces* implies differing textures, and also multiple sides of a single piece if required for a 3-D puzzle.

Regarding claims 33-37, Klimpert discloses wherein the soft fabric includes *any material* as needed to create a particular impression. See col. 2: 1-11.

Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klimpert (US 5,735,521) in view of Welbourn (US 3,479,751) and in further view of Lowenstein (US 2,076,956).

Regarding claims 24-25, Klimpert/Welbourn disclose all of the features of parent claim 23 as described above, but fail to teach wherein the pieces are attachable along the edges to form a patchwork article via the use of lacing. However, Lowenstein discloses a decorative puzzle/patchwork device that uses this manner of attaching pieces. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this attachment mechanism in the system of Klimpert/Welbourn, in order to allow the user to keep the assembled puzzle as a picture.

Response to Arguments

Applicant's arguments dated 5/11/2007 have been fully considered. Arguments pertaining to the 35 U.S.C. 101 utility rejection of the previous action are persuasive, and the rejection is withdrawn. This action is made NON-FINAL. Applicant's further arguments are moot in view of the new grounds of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy Musselman whose telephone number is (571)272-1814. The examiner can normally be reached on Mon-Thu 6:00AM - 4:30PM.

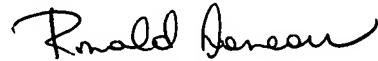
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571)272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Ronald Laneau
~~Supervisory~~ Primary Examiner
Art Unit 3714

8/20/07